

CENTRAL INFORMATION COMMISSION

Room No. 308, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066

File No.CIC/LS/A/2013/000493

Appellant	Col. P.C. Vashishtha
Public Authority	Indian Army.
Date of hearing	11.03.2013
Date of decision	11.03.2013

Facts :-

Heard today dated 11.03.2013. Appellant not present. The Army is represented by Col. J.S. Yadav and Maj. R.L. Panhotra.

2. The matter, in short, is that the appellant is a retired Colonel. Vide RTI application dated 14.9.2012, he had sought the following information :-

“(a) Are these schools/AWES Cell AHQ and AWES Cell Comd HQs being funded by Central Govt. i.e. Ministry of Defence/AHQ.

(b) Does the functionary of these institution fall under the purview of RTI Act 2005.

(c) Can these Institutions deny the information about the selection of Directors AWES Cell Comd. HQs, principals, vice principals, teachers and the other staff/CL-IV employees under sec. 2(h)(d) of RTI Act 2005.”

3. The CPIO, vide letter dated 30.10.2012, had informed the appellant that AWES and its educational institutions did not fall in the ambit of RTI Act, 2005. On appeal, the Appellate Authority, in order dated 21.12.2012, had taken the same view.

4. However, in the appeal memo filed before this Commission, the appellant has submitted that 07 to 10 crores are sanctioned by ‘A’ Branch, AHQ, for the construction of Army Schools through AWES and the interest on the corpus money is being used to run the Schools. Besides, a large number of Army Schools are being run in the Army buildings which are being maintained by MES. Thus, it can be said that the Army Schools are indirectly financed by the Government and, thus, fall in the ambit of section 2(h) of the RTI Act.

5. On the other hand, Col. Yadav submits that it has been the consistent view of this Commission that AWES and the Army Schools run by it are not Public Authority under section 2(h). He has drawn my attention to the following decisions of the Central

Information Commission wherein it has been held that the Army Schools are not Public Authority. These decisions are mentioned below :-

- (a) **CIC decision dated 06 Oct 2009 in the case of Mrs. Amba Joshi –Vs- Army School Almora.**
- (b) **CIC decision dated 15 Oct 2009 in the case of Shri Ishwar Singh Walia Vs APS Sadar Bazar Delhi Cantt.**
- (c) **CIC decision dated 27 Sep 2010 in the case of shri Prithu Bhandari Vs APS Lansdown.**
- (d) **CIC decision dated 14 Jan 2011 in the case of Mrs. Anju Rajput Vs Army School Ferozepur.**
- (e) **CIC decision dated 13 Dec 2012 in the case of Ms Rachna Gupta Vs APS Nehru Road, Lucknow.**

5. It may be pertinent to mention that section 2(h) of the RTI Act defines Public Authority . Clause (h) is extracted below :-

- (h) **"public authority" means any authority or body or institution of self-government established or constituted—**
 - (a) by or under the Constitution;**
 - (b) by any other law made by Parliament;**
 - (c) by any other law made by State Legislature;**
 - (d) by notification issued or order made by the appropriate Government, and includes any—**
 - (i) body owned, controlled or substantially financed;**
 - (ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;**

6. In para (i) of sub clause (d), an entity can be declared a Public Authority if it is **controlled or substantially financed** by the **appropriate Government**. The question is whether the AWES and the Army Schools run by it are controlled by or substantially financed by the Central Government. It may be clarified that as per case law, substantial financing does not mean ‘majority financing’ but at the same time, it does not mean ‘insubstantial financing’. The question is whether the funds sanctioned by the Army Headquarters, as claimed by the appellant, constitute substantial financing. All these issues have been considered in depth by the Commission in the past and the view of the Commission so far has been that the AWES and the Army Schools are neither controlled nor

financed by the Central Government, In this view of the matter, the appeal must fail.
Dismissed.

Sd/-
(M.L. Sharma)
Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(K.L. Das)
Deputy Registrar

Address of parties :-

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